

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-100410
		TRIAL NO. 10TRD-8281
Plaintiff-Appellee,	:	
		<i>JUDGMENT ENTRY.</i>
vs.	:	
GUY MCFADDEN,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Following a bench trial, defendant-appellant Guy McFadden was convicted of violating Cincinnati Municipal Code 506-40, which concerns traffic-control signals. Specifically, McFadden was convicted of disobeying a red light.

In this appeal, McFadden has raised one assignment of error, arguing that his conviction was against the manifest weight of the evidence. When reviewing the manifest weight of the evidence, this court must examine the record, weigh the evidence, and consider the credibility of the witnesses to determine whether the trier of fact lost its way and created a manifest miscarriage of justice in finding the defendant guilty.² When considering credibility, we are mindful that the trier of fact was in the best position to judge the credibility of the witnesses.³

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² *State v. Thompson*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541.

³ *State v. Gorrasi*, 1st Dist. No. C-090292, 2010-Ohio-2875, ¶12.

The evidence presented at trial demonstrated that McFadden's vehicle had collided with a vehicle driven by Catherine Butler in the middle of an intersection. Butler testified that the traffic light facing her was red when it had first come into her view. But the light turned green as she approached, and Butler accelerated to enter the intersection. According to Butler, no other vehicles were in the intersection when she entered it. As she was proceeding through the intersection, Butler collided with McFadden's vehicle. The state additionally presented testimony from Cincinnati Police Officer Ronald Kullgren, who had responded to the accident scene. Officer Kullgren testified that, based on discussions with Butler, the impact suffered by the vehicles, and the positions of the vehicles following the accident, he had cited McFadden for a traffic violation.

McFadden testified on his own behalf. He stated that had been stopped at a red light at the intersection where the collision occurred. When the light in his direction turned green, McFadden began to accelerate into the intersection, where his vehicle collided with Butler's vehicle.

Following our review of the record, we cannot conclude that McFadden's conviction for disobeying a red light was against the manifest weight of the evidence. Butler's testimony, as well as that given by Officer Kullgren, supported the trial court's finding of guilt. McFadden's testimony was in direct contradiction to that given by Butler and supported his version of events. But as the trier of fact, the trial court was in the best position to judge the credibility of the witnesses, and it was entitled to afford more credibility to Butler's testimony.

McFadden's sole assignment of error is overruled. The judgment of the trial court is, accordingly, affirmed.

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A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

DINKELACKER, P.J., HENDON and FISCHER, JJ.

To the Clerk:

Enter upon the Journal of the Court on February 16, 2011
per order of the Court _____.
Presiding Judge